IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 2232 (SS) of 2001
(Old No. 41874 of 2000)

Rajendra Singh Bisht,
S/o Sri Bachan Singh Bisht,
Mechanic (Electrical)
Department of Physics,
H.N. Bahuguna Garhwal University,
Srinagar, Garhwal. **…….Petitioner**

Versus

1. Vice Chancellor, H.N. Bahuguna Garhwal University, Sri Nagar, Garhwal.
2. Registrar, H.N. Bahuguna Garwhal University, Sri Nagar, Garhwal.

…….Respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri V. K. Bisht, Sr. Advocate, assisted by Sri V.K. Kaparwan, learned counsel for the petitioner and Sri J.P. Joshi, learned standing Counsel for respondents.

By means of this writ petition, the petitioner has prayed for the following reliefs:-

a. *Issue a writ, order or direction in the nature of Mandamus commanding the respondents to grant promotion to the petitioner on the post of Junior Engineer (electrical) with effect from 10.12.1999.*
b. *Any other writ,, order or direction, which this Hon'ble Court may deem fit and proper in the circumstances of the case*
c. *award the cost in favour of the petitioner.*

The stand of the petitioner is that he was appointed as Mistri Mechanic in the Department of Physics vide order dated 20.09.1972. One post of Junior Engineer (Electrical) was

sanctioned in H.N. Bahuguna Garwhal University (hereinafter referred to as University) vide order dated 20.07.1987. Since the petitioner had worked with the respondents in the Department of Physics for about 15 years he made representation with a request that he may be promoted on the post of Junior Engineer. The said representation was forwarded by the Head of the Department and Dean of Faculty of Science of the University. However, the University appointed one Sri Vijayanand Bahuguna as Junior Engineer by way of direct recruitment. One more post of Junior Engineer (Electrical) was sanctioned, again respondents promoted one Sri N.C. Khanduri, Junior Engineer (Electrical) instead of promoting the petitioner.

Aggrieved with the action of respondents by giving promotion to Sri N.C. Khanduri on the post of Junior Engineer, petitioner filed representation before Vice Chancellor, however, no heed was paid by the Vice Chancellor of the University.

Respondents have filed counter affidavit. In the counter affidavit respondents have submitted that petitioner was not eligible for promotion to the post of Junior Engineer. Petitioner, is having certificate of Electrician from ITI and is working as Mistri in the Department of Physics as such, he is not at all eligible for promotion to the post of Junior Engineer (Electrical). So far as Sri N.C. Khanduri is concerned, Sri N.C. Khanduri was working as Electrician in the same pay scale, which is applicable to Junior Engineer. Further, Sri N.C. Khanduri was eligible to be promoted on the post of Junior Engineer.

It is not disputed that the petitioner is not having the Diploma in Electrical Engineer which is the essential qualification prescribed for appointment to the post of Junior Engineer in almost all the Departments. Petitioner could not show any Rule, which provides that a person, who is not having Diploma in Electrical can be promoted or appointed as Junior Engineer (Electrical).

Petitioner has relied on the letter dated 08.08.1985 written by Chief Engineer, Hydel to Executive Director of the U.P.S.E.B. and other officers. The aforesaid letter relates to examination for promotion to the post of Junior Engineer (G) from amongst eligible of Operation Staff Cadre. This letter relates to the procedure of examination. Petitioner cannot take any benefits of the aforesaid letter. Neither the petitioner is eligible to be promoted to the post of Junior Engineer nor any person junior to him working as Mistri has been promoted by the University on the post of junior Engineer.

For the reasons recorded above, writ petition lacks of merit, as such, is dismissed. No order as to costs.

(M.M. Ghildiyal, J.)

March 22, 2007
Sksharma